

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 11-00612 GAF (DTBx)	Date	May 13, 2011
Title	Insouth Funding Inc. v. Marco A. Soto		

Present: The Honorable	GARY ALLEN FEESS		
Renee Fisher	None		N/A
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
None		None	

Proceedings: (In Chambers)

ORDER REMANDING CASE

On February 8, 2011, Insouth Funding, Inc. (“Insouth”), a corporation, filed an unlawful detainer action against Defendant Marco A. Soto (“Soto”) in the San Bernardino County Superior Court, and on April 18, 2011, Soto removed the matter to this Court invoking federal question and diversity jurisdiction under 28 U.S.C. §§ 1331 and 1332, respectively. (Docket No. 1, Not. at 2, Ex. 1 [Compl.].) On May 2, 2011, this Court ordered Soto to show cause why this case should not be remanded for lack of subject matter jurisdiction. (Docket No. 6, 5/2/11 Order at 1.)

The Court explained in the order that Soto failed to properly invoke diversity jurisdiction in the present action because he did not adequately allege his own state of domicile or the state of incorporation and principal place of business of Insouth, as required under 28 U.S.C. § 1332(c)(1). (*Id.* at 2.) The Court further noted that Soto’s removal based on federal question jurisdiction did not appear warranted in this case because Insouth had only alleged a state law unlawful detainer claim in the complaint, which does not arise “under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331; (5/2/11 Order at 2). Finally, the Court questioned whether Soto removed this action within the 30-day time limit prescribed by 28 U.S.C. § 1446(b) because Soto failed to indicate in his notice of removal the date that it received “a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case

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is one which is or has become removable.” 28 U.S.C. § 1446(b).

In light of these jurisdictional defects, the Court provided Soto an opportunity to explain why this case should not be remanded for lack of subject matter jurisdiction, and explained that the failure to file a response by the close of business on Wednesday, May 11, 2011, would be deemed consent to remand the case. (5/2/11 Order at 2-3.)

To date, Soto has failed to respond to this Court’s order to show cause. Accordingly, the Court **REMANDS** this action back to the San Bernardino County Superior Court.

IT IS SO ORDERED.